

**CALENDAR ITEM
C70**

A	67	08/14/12
S	35	PRC 8298.9
		PRC 8291.9
		PRC 8290.9
		PRC 8293.9
		PRC 8294.9
		PRC 8297.9
		S. Paschall

**AMENDMENT OF GENERAL LEASES –
PROTECTIVE STRUCTURE USE**

LESSEES:

PRC 8298.9: William Newfield, Trustee of the William and Ruth Newfield Family Trust as Amended and Restated February 16, 2006

PRC 8291.9: Rodney C. Hill and Michelle May Hill

PRC 8290.9: Francis E. Goodyear and Margaret C. Goodyear, Trustees of the Goodyear Family Trust, as amended and completely restated December 14, 2007

PRC 8293.9: Thomas McInally and Lynn T. McInally

PRC 8294.9: Zacharia Reda, Trustee of the Z.R. Trust

PRC 8297.9: George F. Schofhauser and Jay Ann Schofhauser, as Co-Trustees of The George F. Schofhauser Residence Trust, established August 14, 2007, and The Jay Ann Schofhauser Residence Trust, established August 14, 2007

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Main Channel of Huntington Harbour, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use and maintenance of existing bulkhead protection.

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LEASE TERM:

20 years.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest.

PROPOSED AMENDMENT:

Amend the term of the leases from 10 years to a 20-year period. Amend the insurance requirements to be deleted in their entirety. Amend the indemnification provision. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Lessees own the uplands adjoining the lease premises.
2. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960 and recorded on January 31, 1961 in Book 5611, Page 470, Official Records, Orange County, California. Projects, including new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line, require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Lessees' upland properties are located along the Main Channel of Huntington Harbour.
3. On April 24, 2001, the Commission authorized issuance of Lease Nos. PRC 8298.9, 8291.9, 8290.9, 8293.9, 8294.9, and 8297.9, General Leases – Protective Structure Use, to the respective lessees, for repairs to an existing bulkhead structure which may include repair of existing piles, placement of sheet piles and concrete backfill, and installation of slope protection including rock and geotextile.
4. Those leases in paragraph 3 above were issued in response to a number of bulkhead repair projects proposed by Tetra Tech, Inc. (Firm), an engineering firm representing the individual homeowners. These projects were originally approved by the California Coastal Commission (Coastal) under coastal development permits (CDP) 5-99-032 and 5-00-390, which contained a condition requiring the Firm to provide evidence of the implementation of an eelgrass mitigation plan. That condition was not

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met, those CDPs were not issued, and the repair work was not made. Extension requests were submitted but were ultimately denied by Coastal. The firm's projects were subsequently regrouped by Coastal based upon geographic impact, whereby the firm was required to implement the eelgrass mitigation plan for those properties where repair work would displace soft bay bottom habitat. The repair projects were thusly approved by Coastal on December 14, 2006 under CDP Nos. 5-06-436, 5-06-437, 5-06-438, and 5-06-439 which cover all of the leases subject to this amendment. The repair work was completed in 2008 in compliance with the CDPs findings and mitigation measures of SCH #2008071142 prepared in compliance with Article 6 of the California Environmental Quality (CEQA) by the City of Huntington Beach Zoning Administrator.

5. On September 1, 2011, the Commission authorized issuance of Lease Nos. PRC 8298.9 and 8291.9; on January 26, 2012, the Commission authorized issuance of Lease Nos. PRC 8290.9, 8293.9, 8294.9; and on March 29, 2012, the Commission authorized issuance of Lease No. PRC 8297.9; each for 10-year terms, for continued use and maintenance of existing protections to the bulkhead, requiring combined single limit liability of no less than \$1,000,000 with consideration to be the public use and benefit as the bulkhead mutually benefits the lessee and the public while being maintained at no cost to the public.
6. On April 19, staff held a public meeting in Huntington Beach to receive questions, comments, and concerns from Huntington Harbour residents regarding the Commission's jurisdiction and the lease practices. At the meeting, questions were again raised regarding the relatively-short lease term and the need for insurance requirements in leases for bulkhead protection. After independent research and analysis by staff, staff is now recommending that the Commission authorize these lease amendments to extend the lease term to 20 years, remove the insurance requirements, and update the indemnification provisions for those lessees' who require only a protective structure lease for bulkhead protections.
7. **Amendment to Length of Lease Term:**
Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2 section 2905.

8. **Amendment to Insurance Requirements and Indemnification Provision:**

The staff recommends that the Commission find that the subject amendment does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consulting with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Amendment to Length of Lease Term:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Amendments to Insurance Requirements and Indemnification Provision:

Find that the subject amendments are not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activities are not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

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SIGNIFICANT LANDS INVENTORY FINDING:

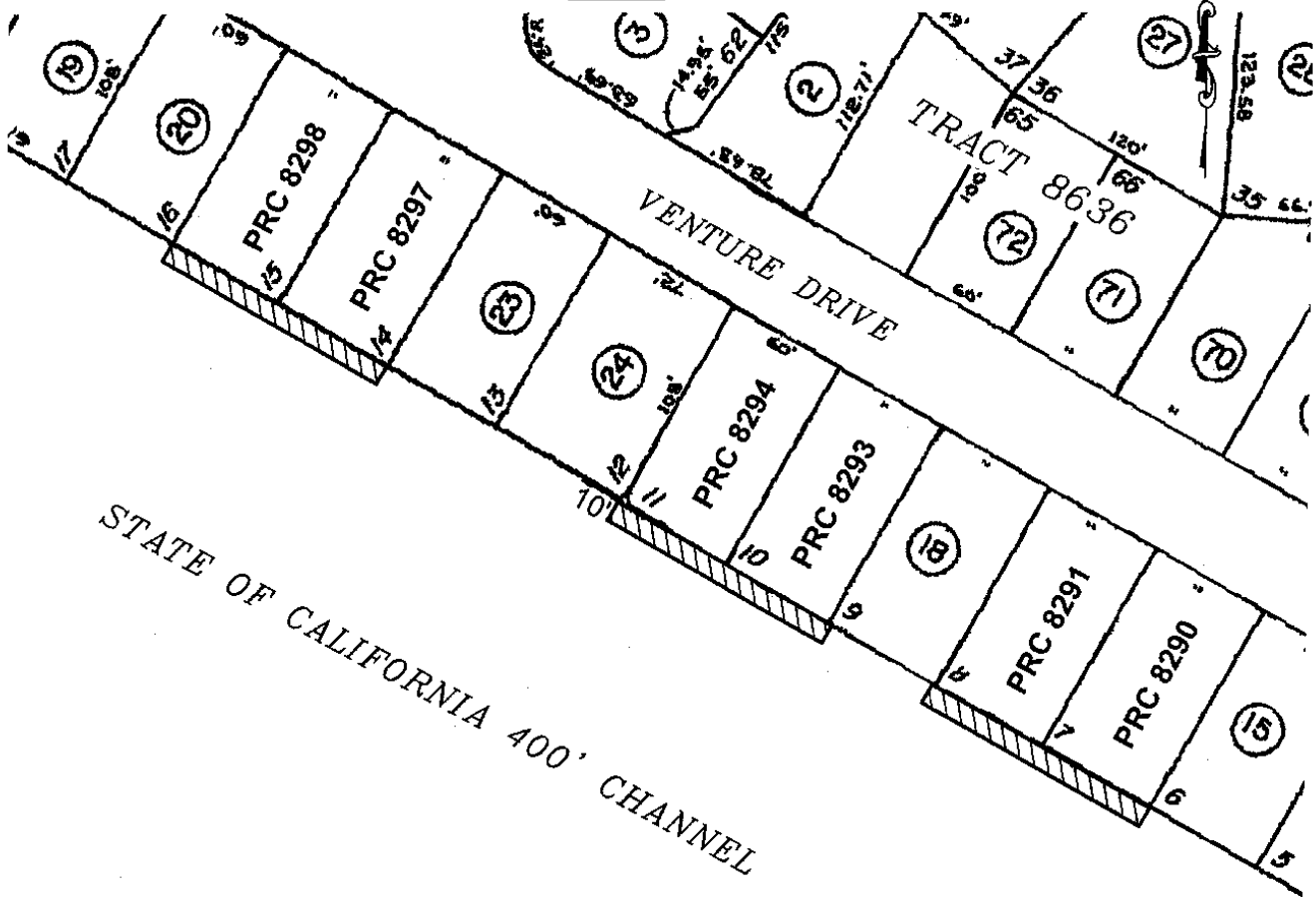
Find that this activity is consistent with the use classification designated by the commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the Amendment of Lease Nos. PRC 8298.9, 8291.9, 8290.9, 8293.9, 8294.9, and 8297.9, General Lease's – Protective Structure Use, for use and maintenance of existing protections to the bulkhead, to amend the term from a 10 year to 20-year period, delete the insurance provisions in their entirety, and amend the indemnification provisions, effective August 14, 2012; all other terms and conditions of the lease will remain in effect without amendment.

NO SCALE

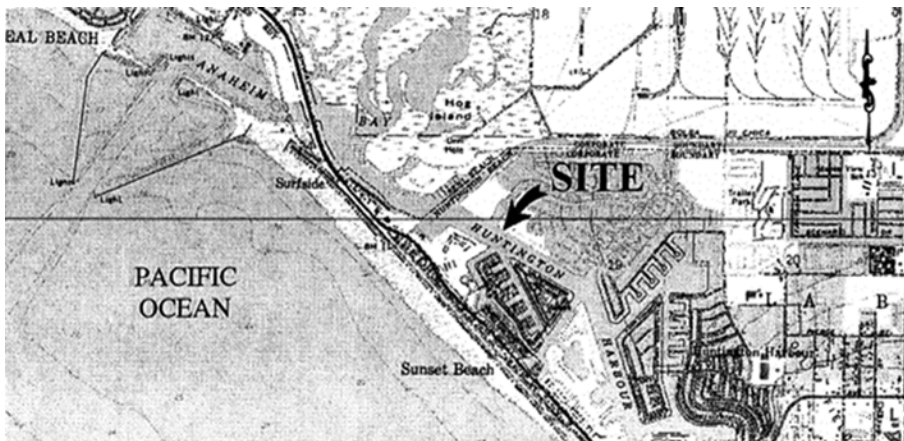
SITE



3332, 3342, 3372, 3382, 3402, 3422 VENTURE DRIVE,
TRINIDAD ISLAND, HUNTINGTON HARBOUR

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

PRC 8290, 8291, 8293,
8294, 8297 & 8298
APN 178-713-16, -17, -19, -20
& 178-731-21, -22
GENERAL LEASE-
PROTECTIVE STRUCTURE
ORANGE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.